

Virginia Board of Counseling
MINUTES
November 2, 2001

- TIME AND PLACE:** The meeting was called to order at 10:03 a.m. on November 2, 2001 in conference room 1 of the Department of Health Professions, 6606 W. Broad Street, Richmond, Virginia.
- PRESIDING:** Rosemarie S. Hughes, Ph.D., Chair of the Board presided.
- MEMBERS PRESENT:** Abigail C. Barnes
Barbara M. Chrisley, Ph.D.
Timothy E. Clinton, Ed.D.
Maurice Graham, D. Min
Howard R. King, Jr., Ph.D.
Jack Knapp, D.D.
Susan D. Leone, Ed.D.
Janice F. McMillan, Ph.D.
Eric T. Scalise
Lynnette Lewis Shadoan
Pamela P. Siegel
- STAFF PRESENT:** Evelyn B. Brown, Executive Director
Benjamin Foster, Deputy Executive Director
Joyce D. Williams, Administrative Assistant
John W. Hasty, Director, Department of Health Professions
Robert A. Nebiker, Senior Deputy Director, Department of Health Professions
- OTHERS PRESENT:** Kevin Doyle
Downing Miller
David Naylor
Robert Storer
- PUBLIC COMMENTS:** Dr. Doyle expressed concerned that the education and experience requirements being recommended for the time-limited waiver for certified substance abuse counselors to be grandfathered in the substance abuse treatment practitioner license were too high and inflexible.

Mr. Naylor expressed concern that he and a lot of other certified abuse counselors who were “pioneers” in the field would not be eligible for the time limited waiver to become Licensed Substance Abuse Practitioners.

Mr. Storer also expressed in correspondence his concern regarding the education and experience requirements recommended for the time-limited waiver. Mr. Storer requested that his correspondence be included in the record. This correspondence is attached as part of the minutes.

MINUTES:

The minutes of August 23, 2001 were approved.

CHAIR:

Dr. Hughes reported that the Board received a ruling from Mr. Nebiker regarding the definition of a quorum. Since the Board is a 14 member Board, despite two vacancies, a quorum is eight. Dr. Hughes encouraged members to contact the Board staff if anyone was unable to attend a meeting, since the Board has only 12 active members at this time.

Dr. Hughes reported that a public hearing was held on October 24, 2001 on the Regulations Governing the Practice of Substance Abuse Treatment Practitioners. The public comment period ended on October 24. Mr. Foster will give an update on written comments.

Dr. Hughes reported that the public comment period for the Certified Substance Abuse Counselor Assistants and Certified Substance Abuse Counselors regulations will end on November 21, 2001. A public hearing on these regulations will be held on December 7, 2001.

Dr. Hughes reported that the Virginia Counselors Association and the Virginia Association of Clinical Counselors would pursue legislation for continuing education at next year’s General Assembly session. She suggested that once the Board is authorized to write regulations for continuing education, that it also write regulations for inactive status of license or certification and perhaps review supervision requirements also.

Dr. Hughes reiterated the policy that Board members do not have the authority to speak individually for the Board unless specifically authorized by the Board. Board members should advise individuals to contact the Board office or write to the full Board.

DEPARTMENT DIRECTOR: Mr. Hasty gave a farewell address to the Board. He presented an overview of the achievements that have been made by the Department of Health Professions since 1994. He presented each Board member with a special pin designed for the Department. Mr. Hasty plans to retire on February 1, 2002.

ASSISTANT ATTORNEY GENERAL: Ms. Fleming announced that she has been appointed by the Attorney General to be special counsel to the University of Virginia Hospital. This will be her last meeting with the Board of Counseling.

A motion was made by Mr. Scalise and properly seconded that the Board convene in closed session to consult with legal counsel on a matter in which litigation may be probable.

The Board reconvened in open session. Mr. Scalise certified in a motion that the Board discussed only issues exempt from the Freedom of Information Act while in closed session.

Dr. Hughes summarized information regarding the issue of substantially equivalent. She explained that Committee recommendations are not the same as Board actions. Dr. Hughes explained that the Board is not required to take any action because the law says it “**may** take action to produce substantially equivalent standards”. However, the Board has chosen to set requirements for a time-limited waiver for the substance abuse treatment practitioner license. She also explained that the Board has a 30-day public comment period. If the Board adopts a substantially equivalent proposal for a time-limited waiver at this meeting, the proposal goes to the Department of Planning and Budget and the Governor’s office for approval or disapproval. If approved it comes back to the Board and there is another

60 day public comment period and another public hearing. After the public comments are responded to, the Board adopts final regulations. There is another 30-day public comment period and the regulations go into effect. Dr. Hughes further explained that the process of proposal for regulations is not anything that the Board chooses; it is set in law for the Board.

EXECUTIVE DIRECTOR: Ms. Brown reported that there was some concern about the professional counselor regulations that will require completion of more core contents if the 60 semester hours of coursework is not completed by April 11, 2002. Upon advise from Board counsel a guidance document will be developed. This document will be presented for Board approval at this meeting.

REGULATIONS: Mr. Foster presented an update on the status of the Board's regulatory review processes. Mr. Foster also discussed a memorandum he sent to the Board members on October 17, 2001 regarding regulatory review in which he submitted copies of the NOIRAs for the Time-limited waiver, and requirements for Certified Substance Abuse Counselor Assistants and Certified Substance Abuse Counselors.

Mr. Foster advised the Board of the existence of the Townhall website that allows individuals to track each step of any regulatory process. Mr. Foster informed Board members that he is available to give instructions on how to access this website.

Mr. Foster summarized the written comments on the time-limited waiver. He reported that thirty-six letters and four e-mails were received. All but one of the responses was supportive of this regulatory initiative. The summary is attached as part of the minutes.

Mr. Foster reported that a public hearing on Regulations Governing the Practice of Substance Abuse Treatment Practitioners regarding the time-limited waiver was held on October 24, 2001. Four individuals spoke at this hearing. The report from the hearing is attached as part of the minutes.

Dr. Hughes announced that the Board will be discussing consistency language in the regulations of all of the Board's professions at its February meeting.

COMMITTEE REPORTS: **Regulatory/Supervision Legislative Committee**

Dr. McMillan reported that the Regulatory/Supervision /Legislative Committee met on November 1, 2001. The Committee discussed the time-limited waiver for substance abuse treatment practitioner licensure. The Committee approved the language for this regulation.

After discussion with Dr. Doyle, a representative from the Virginia Association of Alcoholism and Drug Abuse Counselors, the Committee considered allowing more flexibility in the credit hours it would be recommending for the competency hours.

A motion was made by Dr. McMillan to accept the proposed regulations with the changes made after discussion. The motion was unanimously approved. The final proposal is attached as part of the minutes.

Ad Hoc Committee on Certified Substance Abuse Counselor Assistants and Certified Substance Abuse Counselors

Ms. Barnes reported that this Committee met on October 26, 2001 to develop proposed didactic training and supervision requirements for Certified Substance Abuse Assistants. She, Dr. Kevin Doyle and Mr. Michael Kelly were in attendance. The next meeting will be held on December 7, 2001. The report from the October 26th meeting is attached as part of the minutes.

Credentials

Dr. King reported on the credentials reviewed on November 1, 2001. The report was unanimously approved. That report is attached as part of the minutes.

Discipline

Ms. Shadoan reported that the Board has 16 cases in Enforcement and two cases at Board level. She further reported that two informal conferences had been held since the August 23, 2001 Board meeting and two cases are in the Administrative Proceedings Division (one for preparation of a notice for an informal conference and one for preparation of a notice to surrender license) The report was unanimously approved.

Examination

Dr Hughes reported on the July 21, 2001 examination for Licensed Professional Counselors. Forty individuals took the examination. Thirty-six individuals passed and four failed. Of thirty-one individuals who took the examination for the first time, 28 passed and three failed. Of seven people who took the examination for the second time, all passed. One person took it for the third time and failed. One person took the examination for the fifth time and passed.

For informational purposes, Dr. Hughes also reported that the National Board for Certified Counselors' website indicates that 37 states administer the National Counselor Examination (NCE). This examination is not clinically oriented. It is a content oriented examination. Some of those 37 states administer either the NCE or the National Certified Clinical Mental Health Counselor Examination (NCCMHCE), which is clinically oriented. Three states require both the NCE and the NCCMHCE.

Dr Hughes reported that the Examination Committee will meet in February.

Department of Health Professions (DHP)

Dr. Knapp reported that DHP has not met since the Board of Counseling met in August. The next meeting is scheduled for December 5, 2001.

Public Relations

Mr. Scalise reported that the Board of Counseling's newsletter has been mailed. He wants to prepare another newsletter in the spring.

OLD BUSINESS:

Association of Marital and Family Therapy Regulatory Boards (AMFTRB)

Dr. McMillan attended AMFTRB's conference on October 18th. It was a business meeting and those in attendance met in small groups to study areas of regulatory concern at the national level. Issues of concern to this Association are the same issues that the American Association of State Counseling Boards (AASCB) has, such as cyber therapy, portability of licensure, distance learning, supervision and continuing competency.

The Association has hired a new part time executive director so that coordination between this Association and the Boards will be facilitated.

One of their goals is to publish a newsletter.

The marriage and family therapy examination is now computerized. The testing is open for three thirty-day windows in a year.

The Association developed a draft as a guide to get regulatory professions to begin studies and address issues of regulatory interest, such as technology, portability/supervision and continuing competency.

AASCB

Dr. Leone and Ms. Brown will attend the AASCB conference as delegates. Dr. Hughes and Dr. McMillan will attend by virtue of their positions in AASCB. Their attendance will be funded by AASCB. Ms. Barnes and Dr. Chrisley also expressed an interest in attending this conference.

NEW BUSINESS

The Board reviewed the following guidance document to accommodate its education changes effective April 12, 2002:

For purposes of Section B. 18 VAC 115-20-15 of the Regulations Governing the Practice of Professional Counseling, "completed" shall mean, being enrolled in coursework at the beginning of the Spring semester 2002; and receiving a passing grade for said coursework (as shown on official transcript) at the end of the spring academic semester 2002.

A motion was made by Dr. Knapp and seconded by Dr. Leone to accept this document. The motion was unanimously approved.

ADJOURNMENT: The meeting adjourned at 1:20 p.m.

Rosemarie S. Hughes, Ph.D. Chair

Evelyn B. Brown, Executive Director